

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 156 be amended to read as follows:

- 1 Page 5, between lines 25 and 26, begin a new paragraph and insert:
2 "SECTION 3. IC 35-42-1-9 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Except as
4 provided in this section, a person who recklessly violates or fails to
5 comply with IC 16-41-7 commits a Class B misdemeanor.
6 (b) A person who knowingly or intentionally violates or fails to
7 comply with IC 16-41-7-1 commits a Class D felony. **However, the**
8 **offense is a:**
9 **(1) Class B felony if the person causes the victim to contract**
10 **hepatitis B; and**
11 **(2) Class A felony if the person causes the victim to:**
12 **(A) contract acquired immune deficiency syndrome**
13 **(AIDS); or**
14 **(B) become infected with human immunodeficiency virus**
15 **(HIV).**
16 (c) Each day a violation described in this section continues
17 constitutes a separate offense.
18 SECTION 4. IC 35-42-4-4, AS AMENDED BY P.L.216-2007,
19 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2008]: Sec. 4. (a) As used in this section:
21 "Disseminate" means to transfer possession for free or for a
22 consideration.
23 "Matter" has the same meaning as in IC 35-49-1-3.

1 "Performance" has the same meaning as in IC 35-49-1-7.

2 "Sexual conduct" means sexual intercourse, deviate sexual conduct,
3 exhibition of the uncovered genitals intended to satisfy or arouse the
4 sexual desires of any person, sadomasochistic abuse, sexual intercourse
5 or deviate sexual conduct with an animal, or any fondling or touching
6 of a child by another person or of another person by a child intended to
7 arouse or satisfy the sexual desires of either the child or the other
8 person.

9 (b) A person who knowingly or intentionally:

10 (1) manages, produces, sponsors, presents, exhibits, photographs,
11 films, videotapes, or creates a digitized image of any performance
12 or incident that includes sexual conduct by a child under eighteen
13 (18) years of age;

14 (2) disseminates, exhibits to another person, offers to disseminate
15 or exhibit to another person, or sends or brings into Indiana for
16 dissemination or exhibition matter that depicts or describes sexual
17 conduct by a child under eighteen (18) years of age; or

18 (3) makes available to another person a computer, knowing that
19 the computer's fixed drive or peripheral device contains matter
20 that depicts or describes sexual conduct by a child less than
21 eighteen (18) years of age;

22 commits child exploitation, a Class C felony.

23 (c) A person who knowingly or intentionally possesses:

24 (1) a picture;

25 (2) a drawing;

26 (3) a photograph;

27 (4) a negative image;

28 (5) undeveloped film;

29 (6) a motion picture;

30 (7) a videotape;

31 (8) a digitized image; or

32 (9) any pictorial representation;

33 that depicts or describes sexual conduct by a child who the person
34 knows is less than sixteen (16) years of age or who appears to be less
35 than sixteen (16) years of age, and that lacks serious literary, artistic,
36 political, or scientific value commits possession of child pornography,
37 a ~~Class D~~ **Class C** felony.

38 (d) Subsections (b) and (c) do not apply to a bona fide school,
39 museum, or public library that qualifies for certain property tax
40 exemptions under IC 6-1.1-10, or to an employee of such a school,
41 museum, or public library acting within the scope of the employee's
42 employment when the possession of the listed materials is for
43 legitimate scientific or educational purposes.

44 **SECTION 5. [EFFECTIVE JULY 1, 2008] IC 35-42-1-9 and**
45 **IC 35-42-4-4, both as amended by this act, apply to offenses**
46 **committed after June 30, 2008."**

- 1 Renumber all SECTIONS consecutively.
 (Reference is to ESB 156 as printed February 8, 2008.)

Representative Goodin